



## Department

Ted Strickland, Governor  
Deborah S. Delisle, Superintendent of Public Instruction

May 12, 2010

Chairman Julius Genachowski  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Dear Chairman Genachowski:

On behalf of State Superintendent Deborah Delisle and the Ohio Department of Education, I would respectfully request the Federal Communications Commission (FCC) give full consideration to the needs of Ohio's school districts as it relates to the Notice of Proposed Rulemaking (NPRM), CG Docket No. 02-278, released January 22, 2010.

It is my understanding that the proposed rule (02-278) is an attempt to harmonize the FCC and Federal Trade Commission rules as it relates to unsolicited telemarketing advertisements. As such, the rule seeks to prohibit an entity from placing "non-emergency" calls to wireless telephones using pre-recorded messages or equipment that is capable of storing numbers for automatically dialing, without first receiving prior written consent from the individuals receiving such calls.

In particular, the proposed rules appear to provide some "exemptions" for school districts from the following citations:

- 1. Introduction** (p. 3, paragraph 3): "We note that the rule revisions proposed herein would make no changes with respect to categories of prerecorded message calls that are not covered by our Telephone Consumer Protection Act (TCPA) rules. Those categories include *calls by or on behalf of tax-exempt non-profit organizations*; calls for political purposes, including political polling calls and other calls made by politicians or political campaigns; *and calls for other noncommercial purposes, including those that deliver purely "informational" messages – for example, prerecorded calls that notify recipients of a workplace or school closing.* In addition, because the TCPA's restrictions on prerecorded messages do not apply to calls initiated for emergency purposes, the proposed rule revisions would not affect messages sent to consumers to alert them to emergency situations, including, for example, emergency messages permitted by the WARN ACT and/or the Commercial Mobile Alert System (CMAS)"
- 2. Exemption for established business relationships** (p. 11, paragraph 24): The TCPA prohibits the use of artificial or prerecorded messages in telephone calls to residential (wireline) numbers without the prior express consent of the called party, but *permits the Commission to exempt from this provision calls that are non-commercial and commercial calls that "do not adversely affect the privacy*

*rights of the called party” and that do not transmit an “unsolicited advertisement.”*

Assuming I am interpreting these provisions accurately, I want to reinforce the need for school districts to be exempt from the proposed rule that would require entities to seek written permission before contacting individuals on wireless telephones. Without such an exemption, the proposed rule could negatively impact schools and school districts.

In Ohio and across the country, it is routine for parents to provide school personnel with several options of contacting them including land-lines, home telephones, cellular telephones and email. Typically, schools and districts may notify parents, with all the forms of communication provided, about upcoming events, student attendance, parent-teacher conferences, grade card issues, or cancellations, which may or may not fall under your “emergency” criteria. Without an exemption from the proposed rule, school districts across the country, which are already understaffed and facing financial difficulties, could be faced with yet another unnecessary administrative burden as they would have to ascertain the type of communication device used by the parents, track down written permission slips to use such a device, and document and maintain the records.

On behalf of Ohio’s school districts, educators and parents, please give due consideration to exempting schools and school districts from the proposed rules.

Sincerely,

Jeremy Marks  
Federal Legislative Liaison  
Ohio Department of Education